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Attorneys for Defendants
LVNV FUNDING, LLC and RESURGENT
CAPITAL SERVICES, LP

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

MERCY MESIANO,
Plaintiff,

v.

ERICA L. BRACHFELD AND
LAW OFFICES OF BRACHFELD
& ASSOCIATES, PC; LVNV
FUNDING LLC; NCO
FINANCIAL SYSTEMS, INC.;
AND RESURGENT CAPITAL
SERVICES, L.P.,

Defendants.

Case No: 09 CV 1046 MMA BLM

JOINT MOTION TO (I) EXTEND
DISCOVERY CUT-OFF DATE; (II)
CONTINUE MANDATORY
SETTLEMENT CONFERENCE; AND
(III) EXTEND PRETRIAL MOTION
FILING DEADLINE

Discovery Cut-Off Date: April 12, 2010
Settlement Conference Date: April 26, 2010
Pretrial Motion Deadline: May 17, 2010

Plaintiff Mercy Mesiano (“Plaintiff”), Defendant LVNV Funding, LLC
 (“LVNV”), Defendant Resurgent Capital Services, LP (“Resurgent”), Defendant
 NCO Financial Systems, Inc. (“NCO”), Defendant Erica L. Brachfeld (“Ms.
 Brachfeld”), and Defendant Erica L. Brachfeld, A.P.C. (“Brachfeld APC”)

1 (collectively, the “Movants”) hereby move this Court for an Order (i) extending the
2 April 12, 2010, deadline to complete discovery by ninety (90) days; (ii) continuing
3 the Mandatory Settlement Conference scheduled for April 26, 2010, at 1:30 p.m. to
4 a date in early July 2010; and (iii) extending the May 17, 2010, deadline for filing
5 pretrial motions by ninety (90) days.
6

7 The Movants agree that good cause exists to grant the relief requested in this
8 Joint Motion. Defendants LVNV, Resurgent, and NCO were just recently added as
9 parties to this lawsuit pursuant to the First Amended Complaint for Damages filed
10 by Plaintiff on January 20, 2010. The newly-added parties are working diligently
11 to complete discovery as expeditiously as possible. However, it will be extremely
12 difficult to do so prior to the April 12, 2010, deadline. As a result, the Movants
13 request a ninety (90) day extension to the discovery cut-off date. The Movants
14 also request a corresponding ninety (90) day extension to the pretrial motion filing
15 deadline. The requested extensions will afford the newly-added parties time to
16 more fully investigate the facts of the case and analyze the merits of the claims
17 asserted against them prior to filing dispositive motions, if any, and will allow the
18 Court to preserve the chronology established in its September 11, 2009, Case
19 Management Conference Order.
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25 In addition, the Movants believe it will be very difficult for the newly-added
26 parties to meaningfully participate in the Mandatory Settlement Conference prior
27 to completing discovery. As a result, the Movants request an extension to the
28

1 Mandatory Settlement Conference scheduled for April 26, 2010, at 1:30 p.m. in the
 2 chambers of the United States Magistrate Judge Barbara L. Major, Courtroom 5,
 3 940 Front Street, San Diego, California. The Movants anticipate that a settlement
 4 conference with the participation of all interested parties could take place by early
 5 July 2010.
 6

7 The Movants have agreed to the extensions discussed above. The Movants,
 8 therefore, request that this Court enter an Order:
 9

- 10 1. Extending the April 12, 2010, deadline for completing discovery by
 11 ninety (90) days so that the new deadline will be on or about July 12,
 12 2010;
- 13 2. Continuing the Mandatory Settlement Conference scheduled for April
 14 26, 2010, at 1:30 p.m. to a date in early July 2010;
- 15 3. Continuing the May 17, 2010, deadline for filing pretrial motions by
 16 ninety (90) days so that the new deadline will be on or about August
 17 16, 2010; and

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4. Granting such other and further relief as the Court deems just and proper.

MOSS & BARNETT, P.A.

Dated: March 15, 2010

By: /s/ Issa K. Moe

ISSA K. MOE
Attorneys for Defendants
LVNV FUNDING, LLC and
RESURGENT CAPITAL SERVICES,
LP

HYDE & SWIGART

Dated: March 15, 2010

By: /s/ Joshua B. Swigart

JOSHUA B. SWIGART
Attorneys for Plaintiff
MERCY MESIANO

SESSIONS FISHMAN NATHAN &
ISRAEL LLP

Dated: March 15, 2010

By: /s/ Sondra R. Levine

SONDRA R. LEVINE
Attorneys for Defendant
NCO FINANCIAL SYSTEMS, INC.

CARLSON & MESSER LLP

Dated: March 15, 2010

By: /s/ Michael P. Lavigne

MICHAEL P. LAVIGNE
Attorneys for Defendants
ERICA L. BRACHFELD and ERICA
L. BRACHFELD, A.P.C.

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11 Attorneys for Defendant
12 LVNV FUNDING, LLC and
13 RESURGENT CAPITAL SERVICES, LP

11 **UNITED STATES DISTRICT COURT**
12 **SOUTHERN OF CALIFORNIA**

13 **MERCY MESIANO,**
14 **Plaintiff,**

15 **v.**

16 **ERICA BRACHFELD AND LAW**
17 **OFFICES OF BRACHFELD &**
18 **ASSOCIATES, PC; LVNV**
19 **FUNDING LLC; NCO**
20 **FINANCIAL SYSTEMS, INC.;**
21 **AND RESURGENT CAPITAL**
22 **SERVICES, L.P.,**

23 **Defendant.**

Case No: 09 CV 1046 MMA BLM

CERTIFICATE OF SERVICE

Courtroom: 5 (3rd Floor)
Judge: Michael M. Anello
Magistrate Judge: Barbara Lynn Major
Complaint Filed: May 13, 2009
Trial Date: October 12, 2010

CERTIFICATE OF SERVICE

STATE OF MINNESOTA)

COUNTY OF HENNEPIN)

I declare that:

I am and was at the time of service of the papers herein, over the age of eighteen (18) years and am not a party to the action. I am employed in the County of Hennepin, Minnesota, and my business address is 4800 Wells Fargo Center, 90 South 7th Street, Minneapolis, Minnesota 55402.

On **March 15, 2010**, I caused to be served the following documents:

JOINT MOTION TO (I) EXTEND DISCOVERY CUT-OFF DATE; (II) CONTINUE MANDATORY SETTLEMENT CONFERENCE; AND (III) EXTEND PRETRIAL MOTION FILING DEADLINE

☐

BY REGULAR MAIL: I caused such envelopes to be deposited in the United States mail, at Minneapolis, Minnesota, with postage thereon fully prepaid, individually, addressed to the parties as indicated. I am readily familiar with the firm's practice of collection and processing correspondence in mailing. It is deposited with the United States postal service each day and that practice was followed in the ordinary course of business for the service herein attested to. (Fed. R. Civ. P. 5(b)(2)(B).)

☐

BY OVERNIGHT SERVICE: I caused such envelopes to be delivered by Overnight/Express Mail Delivery to the addressee(s) noted in this Certificate of Service.

☐

BY FACSIMILE TRANSMISSION: I caused a true copy of the foregoing document(s) to be transmitted (by facsimile #) to each of the parties mentioned above at the facsimile machine and as last given by that person on any document which he or she has filed in this action and served upon this office.

☒

BY ELECTRONIC FILING SERVICE: By electronically filing the foregoing document(s) using the CM/ECF system. Service of an electronically filed document upon a CM/ECF User who has consented to electronic service is deemed complete upon the transmission of the Notice of Electronic Filing ("NEF"). The NEF will be maintained with the original document(s) in our office.

☐

BY PERSONAL SERVICE: I served the person(s) listed below by leaving the documents, in an envelope or package clearly labeled to identify the person being served, to be personally served via Metro Legal Services on the parties listed on the service list below at their designated business address.

☐

By personally delivering the copies;

☐

By leaving the copies at the attorney's office;

MOSS & BARNETT, P.A.
4800 WELLS FARGO CENTER
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I declare that I am employed in the office of a member of the bar of this Court, at whose direction the service was made.

I am readily familiar with the firm's practice of collection and processing correspondence for mailing. Under that practice, it would be deposited with the United States Postal Service on that same day with postage thereon fully prepaid at Minneapolis, Minnesota, in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after the date of deposit for mailing in affidavit.

Executed on March 15, 2010, at Minneapolis, Minnesota.

1565051v128

Service List

MERCY MESIANO V. ERICA L. BRACHFELD AND LAW OFFICES OF
BRACHFELD & ASSOCIATES, PC; LVNV FUNDING LLC; NCO
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